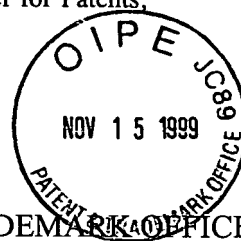


I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on November 10, 1999

11/10/99
Date

Gail Wardwell
Signature



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

WANG

Serial No.: 09/209,961

Group Art Unit: 1643

Filing Date: December 10, 1998

Examiner: A. R. Salimi

Title: POSTWEANING MULTISYSTEMIC WASTING SYNDROME VIRUS
FROM PIGS

7/4
15
11-15-99

RESPONSE TO REQUIREMENT FOR RESTRICTION

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

This is in response to the Restriction Requirement dated October 14, 1999.

The Examiner therein required election of one of the following groups of claims:

Group I, claims 1-6, 10, 11, 15, 16, 20, 21, and 47, drawn to isolated polynucleotides capable of hybridizing porcine circovirus type II (PCV II), host cells, expression vectors, methods of producing PCVII polypeptides and an immunodiagnostic test kit;

Group II, claims 7-9, 12-14, 17-19, 22-24, drawn to polynucleotides encoding immunogenic polypeptides against PCVII, expression vectors, host cells, and methods of producing PCVII polypeptides;

Group III, claims 25 and 26 drawn to proteins;

Group IV, claims 27-29, drawn to proteins;

Group V, claims 30-32 and 36-41, drawn to immunogenic polypeptides;

Group VI, claims 33-35, drawn to antibodies;

Group VII, claim 42, drawn to a method of detecting PCVII antibodies;
Group VIII, claim 43, drawn to immunodiagnostic test kit; and
Group IX, claims 44-46, drawn to a nucleic hybridization assay.

Applicants hereby elect to prosecute the claims of Group II, claims 7-9, 12-14, 17-19, 22-24, with traverse. In particular, applicants believe the above nine-way Restriction Requirement to be unduly burdensome and in error.

Specifically, the claims of Groups I and II are both directed to polynucleotides related to the PCVII sequence. The difference between the two groups of claims is that the claims of Group I are framed with reference to the nucleotide sequence of PCVII, while those of Group II are framed with reference to polypeptides encoded by the PCVII nucleotide sequence. Thus, the claims of Group II are in essence a subset of those of Group I. Accordingly, applicants believe that the claims of Group I and Group II, claims 1-24, and 47, should be examined together as one group.

Similarly, applicants believe the claims of Groups III, IV and V should also be grouped together. All of the claims in these groups pertain to PCVII proteins and, in the case of Group V, compositions comprising the proteins. The claims of Groups III and IV are written in product-by-process format and pertain to proteins derived from the nucleotide sequences of Groups I and II. The proteins and compositions of Group V are not written in product-by-process format but still pertain to proteins derived from ORFs from PCVII, the ORFs which are also recited in the claims of Group II above. Thus, applicants suggest that the claims of Groups III, IV and V, claims 25-32 and 36-41, be examined together as one group.

MPEP §803 states:


If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent and distinct inventions. (Emphasis added.)

Applicants submit that an examination of the claims of Groups I and II together as one group, and the claims of Groups III, IV and V together as one group, would not impose a serious burden on the Examiner. Indeed, applicants believe that failure to examine the claims as proposed would pose a far greater burden on the Patent and Trademark Office, by requiring a duplication of effort and resources, since a search directed to claims in any of Groups I and II, and similarly any of Groups III, IV and V, would turn up overlapping art if such art existed. Additionally, imposing a nine-way Restriction Requirement will cause a considerable expense to applicants. Accordingly, applicants respectfully traverse the above Restriction Requirement and request reconsideration thereof.

Applicants expressly reserve their right under 35 USC §121 to file one or more divisional applications directed to the nonelected subject matter during the pendency of this application.

Respectfully submitted,

Date: 11/10/99

By: 

Roberta L. Robins
Registration No. 33,208

ROBINS & ASSOCIATES
90 Middlefield Road, Suite 200
Menlo Park, CA 94025
Telephone: (650) 325-7812
Facsimile: (650) 325-7823